

No. 11(112)-80-8Lab./13550.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Didi Modes Private Ltd., Mathura Road, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 347 of 1979

between

THE WORKMEN AND THE MANAGEMENT OF M/S DIDI MODES PRIVATE LIMITED, MATHURA ROAD, FARIDABAD.

Present :

Shri Bhim Singh Yadav, for the workmen.

Shri S. K. Bhasin/Shri Anil Khuller, for the management.

AWARD

By order No. ID/56398, dated 13th December, 1979, the Governor of Haryana referred the following dispute between the management of M/s Didi Modes Private Limited, Mathura Road, Faridabad, and its workmen, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the lock out declared by the management with effect from 11th September, 1979, is justified and in order? If not, to what relief the workmen are entitled to?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 5th March, 1980:—

- (1) Whether the dispute has been properly espoused by a substantial number of workmen?
- (2) Whether the factory has been closed? If so, to what effect?

- (3) Whether this Court has no jurisdiction to adjudicate upon the dispute?
- (4) Whether the dispute is barred as earlier resolved?
- (5) Whether the workmen are estopped from seeking the relief under the reference?
- (6) Whether the workmen have raised demands directly on the management as appropriate time? If not to what effect?
- (7) Whether the claim statement is not properly signed?
- (8) Whether some of the workmen have settled their dispute? If so to what effect?
- (9) Whether the dispute is an Industrial Dispute?
- (10) Whether the union raising the demands has no *locus-standi*?
- (11) If issue No. 1 is found in the affirmative? Whether the relief sought for is beyond the scope of the reference?
- (12) As per reference.

Out of which issues No. 1 to 11 were treated as preliminary. And the case was fixed for the evidence of workmen, who examined Smt. Shakuntla Bhatia as WW-1, Shri Chand, workman as WW-2, Shri Mool Chand, Head Clerk of Labour Officer as WW-3 and closed their case. Then the case was fixed for the evidence of the management, who examined Shri Mukesh Mata, Ex-Personnel Officer of the management as MW-1 and closed their case. Arguments were heard. I now give my findings issueswise.

ISSUE NO. 1:

WW-1 Smt. Shakuntla Bhatia, lady worker of the management stated that the factory was closed on 11th September, 1979. Union made a complaint to the authorities such Labour Department. The management did not attend the Labour Office. She further stated that after closure of the factory a meeting of the workmen was held to consider the closure. A resolution copy Ex. W-1 was passed. She signed the same. The union espoused the demand of the workmen to the Labour

Officer after the meeting. In cross examination She stated that the meeting was attended by 200-250 workers. Shri Ram Rekha Mishra, President of the union had sought advice of the workmen for the next step of the closure of the factory. Some workers left the meeting, others marked their signatures. The resolution was read over to the workers for obtaining their signatures. She admitted it correct that the factory was closed. WW-2 Shri Chand stated that on 11th September, 1979, when they went for duty, the gate was found locked and there was a notice which he did not read, however, the watchman told him that the management had closed the factory. He attended the meeting and signed Ex. W-1. He produced certificate of registration Ex. W-2, copy of the constitution of the union W-3 and copy of demand notice Ex. W-4, W.P.C. certificate W-5. He further stated that demand notice Ex. W-4 was sent to the management also by S.P.C. Ex. W-6 was the notice of Conciliation Officer and Ex. W-7 was the conciliation report. He further stated that the Deputy Labour Commissioner had called the parties and the management had assured him to open the factory but the factory was not opened. In cross examination he stated that he could not recognise the signatures of the workmen or the resolution passed in the meeting. WW-3 Shri Mool Chand, Head Clerk office of the Labour Officer-cum-Conciliation Officer, stated that Ex. W-4 was received in his office. The parties were called on 12th September, 1979, and a report Ex. W-1 was sent to the Government. There is no letter regarding strike or closure in his file. In cross examination he stated that he was not posted in this office at the relevant time. There was no copy of resolution for espousal of the demand in his file. There was no letter Ex. W-4 by which the workmen might have written regarding lock out. Copy of letter Ex. WW-3/1, dated 29th October, 1979, was in the file.

The representative for the management argued that the demand was not covered by section 2(a) of the Industrial Disputes Act, therefore, its espousal by

substantial number of workmen was necessary. He cited 1975 Vol. IV Supreme Court cases page 838 and 1962 AIR Punjab page 231 and 1960 I LLJ page 53 and argued that the onus was on the workmen to prove the espousal. On the other hand the representative for the workmen placed reliance on Ex. W-1, which is a copy of resolution passed in the meeting by the union on 11th September, 1979. He further placed reliance on U.P.C. certificate Ex. W-5 and Ex. W-7.

I have gone through Ex. W-1, which is copy of resolution passed in the general meeting of All India Didi Modes Karamchari Sangh. By resolution No. 3 it was decided by the meeting that the lock out was illegal and the same may be challenged. The resolution was signed by 70 workmen. There is no evidence of the management to rebut the evidence led by the workmen on this issue. It is in evidence of MW-1 that the management had 208 workmen on rolls. Espousal by 70 workmen is sufficient for raising the demand. Therefore, this issue is decided in favour of the workmen.

ISSUE NO. 2:

WW-1 has admitted in her statement that the factory was closed on 11th September, 1979. Her statement is corroborated by WW-2. WW-1 has stated that the factory stands closed and that they had sent closure notice to the authorities. He further stated that the factory did not work after 11th September, 1979. There was no question of re-starting the factory because the machineries had been dismantled. The management has given in para 2 of the preliminary objection that the factory has been closed with effect from 31st October, 1979, after declaration of lock out. In para 3 there is an averment that after the closure 186 workmen out of 208 voluntarily settled their disputes and received all their dues including closure compensation. As in the evidence of both the parties, I hold that the factory stands closed and the closure was real because machineries has been dismantled. Therefore, this issue is decided in favour of the management.

As regards its effect, the management cited 1958 II LLJ, page 230 in which it is held as under:—

Industrial dispute to which the provisions of the Industrial Disputes Act apply is only one which arises out of an existing industry. Therefore, where the business has been closed and it is either admitted or found that the closure is real or bonafide, any dispute arising with reference thereto would fall outside the purview of the Industrial Disputes Act. This would be a fortiori so, if a dispute arises, if one such can be conceived, after closure of the business between the quondam employer and the employees.

And 1960 II LLJ page 669 in which it is held that the Tribunal will confine its adjudication only on the matter under reference and not other. I agree with it. There can be no adjudication on the closure.

ISSUE NO. 11:

I have gone through the prayer given in the claim statement which runs thus:—

"It is therefore, prayed that the lock out dated 11th September, 1979, of the factory by the respondent management be declared illegal and the workmen of the factory may be reinstated into their services with full back wages and continuity of service.

As held by me above on the issue that the factory stands closed, closure being real, there was hardly any question of reinstatement of the workmen which they claimed. As regards the scope of reference, I find that such a relief is otherwise beyond the scope of reference which is "Whether the lock out is justified and in order". In the claim statement the workmen have not claimed any relief on account of lock out, even after the written statement they did not amend their prayer in the rejoinder filed by them.

According to sub section 4 of section 10 of the Industrial Disputes Act, the Industrial Tribunal shall confine its adjudication to the points under reference only. Therefore, relief of reinstatement cannot be allowed in the present reference. This issue is decided accordingly.

ISSUES NO. 6 AND 9:

WW-1 and WW-2 have stated that after the meeting complaint was made to the Labour Department. They have relied upon Ex. W-4 and W-5. Letter Ex. W-4 is addressed to the Labour Commissioner, Haryana, a copy of which is shown in the name of the management of M/s Didi Modes Private Limited, Faridabad. This is the demand notice according to the workmen. No other demand notice or letter was sent to the management according to the workmen. The demand was not raised first on the management. The representative for the workmen argued that the management appeared in the conciliation proceedings and they were apprised of the demand at that time. It was improper to say at this stage by the management that the demand was not raised on them, according to him. Letter Ex. W-4 is in the form of a complaint made to the labour authorities for the declaration of lock out as illegal. The representative for the workmen referred to Ex. W-5 U.P.C. and stated that copy of Ex. W-4, was sent to the management. The management cited 1975 FLR page 305 in which it is held as under :—

It is the workmen, who invoked the jurisdiction of the Industrial Tribunal by making an application before the Government for reference. The onus is on them to establish that the Tribunal has got jurisdiction. To confer jurisdiction on the Tribunal the workmen have to establish the existence of an industrial dispute. The workmen should have therefore averred in the written statement that they made a demand before the management which was refused prior to the initiation of the conciliation proceeding.

In the absence of any proof of demand conclusion is irresistible that there existed no industrial dispute between the parties. The admission of the partitioner in his written statement that there was a conciliation proceeding does not improve the situation. Such an admission does not establish that there was a demand prior to the conciliation proceeding which alone would establish the existence of an industrial dispute.

Therefore, I hold that it was necessary to raise a demand upon the management to make it an Industrial Dispute. This issue is, therefore, decided against the workmen.

ISSUES NO. 3, 4 AND 5:

The parties did not press these issues.

On my findings given on issues No. 6 and 9 against the workmen, the dispute is incompetent. Reference is answered accordingly on the preliminary issues under the circumstances. Workmen are, therefore, not entitled to any relief.

Dated the 3rd December, 1980.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 1138, dated 8th December, 1980.

Forwarded, (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)-80-8Lab/13606.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management

of M/s Continental Device, India Ltd., Faridabad.

BEFORE SHRI M. C. BHARDWAJ,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 82 of 1978

between

SMT. PREM KUMARI, LADY WORKER
AND THE MANAGEMENT OF M/S
CONTINENTAL DEVICE INDIA LTD.,
FARIDABAD

Present:

Shri M. S. S. Cowshish for the workman.

Shri K. P. Agrawal for the management.

AWARD

By order No. ID/FD/13-78/17249, dated 4th May, 1978, the Governor of Haryana, referred the following dispute between the management of M/s Continental Device India Ltd., Faridabad and its workman Shrimati Prem Kumari, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act:—

Whether the termination of services of Smt. Prem Kumari was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 22nd September, 1978:—

- (1) Whether the workman lady resigned his job of his own?
- (2) If issue No. 1 is not proved, whether the termination of services of the workman was justified and in order? If not, to what relief is she entitled?

And the case was fixed for the evidence of the management. Then the management made an application for framing some additional issues and following

other issues were framed on 6th February, 1979:—

- (3) Whether the Reference is bad in law as the management has not terminated the services of the workman ?
- (4) Whether the dismissal does not fall within purview of section 2-A of the Industrial Disputes Act ?
- (5) Whether espousal of the demand was necessary for this case if issue No. 5 is proved, whether the demand has been espoused by substantial number of workmen.

And the case was fixed for the evidence of the management, who examined Shri G. K. Arora, their Secretary as MW-1 and Miss Shashi Dutta, their Administrative Officer as MW-2. Then the case was fixed for the evidence of the workman who examined Shri Bharat Singh, Head Constable as WW-1 and Shri Ghungar Mal as WW-2, Shri Hari Prem as WW-3, Smt. Chander Kala as WW-4 and herself as WW-5 and closed her case. Arguments were heard. Now I give my finding issues-wise:—

ISSUES NO. 3 TO 5:

These issues being question of law, no evidence was led by the parties. During arguments the learned representative for the management argued that the present case was not a case under section 2-A of the Industrial Disputes Act as the dispute was sponsored by the union. He cited 1975-I-LLJ, page 293 and 1976, Vol. 32, IFLR, page 280. On the other hand the representative for the workman argued that the present dispute was a dispute under section 2-A. Therefore, no espousal of the demand was necessary. He also argued that even a dispute of termination arising out of resignation was covered by section 2-A.

I have gone through the demand notice, Exhibit M-5 which is signed by the concerned workman. Underneath her signatures the address of the union is given. The demand notice in no way was

given by the union. Therefore, there was no necessity of espousal of the demand by members of the union. There is an individual demand and falls under section 2-A of the Industrial Disputes Act. Therefore, all these issues are decided against the management.

ISSUE NO. 1:

MW-1 stated that he was informed by the Administrative Officer that 30 devices were recovered from the purse of the concerned workman. He called the workman but she denied having stolen the articles. The police was informed. Two constables reached the factory and they took the workman with them. Miss Shashi Dutta, Administrative Officer, Shri Sahni and the witness also reached the police station. Her husband and brother were also called there. They told the witness that FIR may not be lodged, if the workman will submit her resignation. The witness further stated that resignation, Exhibit M-1 was written by the concerned workman and signed by her brother and husband as witnesses. It was accepted there and then and the workman was informed of its acceptance. In cross-examination he stated that Exhibit W-1 was received by them which was replied,—vide Exhibit M-3. FIR was not lodged with the police because he agreed to the proposal made by her husband and brother of the workman. He further stated that letter of resignation was written by the worker in her own hand and the writing at point 'B' in the hand of her husband and brother. At the time of writing the letter there was none except the workman, her husband, her brother and the witness. MW-2 Miss Shashi Dutta stated that on 29th November, 1977, she was informed by Miss Sumer Kaur that the workman had stolen some devices. Her locker was opened in the presence of some other workmen, namely S/Shri C. P. Chopra, Kundan Lal, Tajinder Singh, B. K. Arya, Mrs. Bedi and Miss Sumer Kaur. She further stated that these persons gave in writing, Exhibit M-5 to M-8 their statements regarding recovery of devices from the locker of the workman. She also stated about the coming of police to the factory and taking away of the workman alongwith her and other officials of the management to the police station. In

cross-examination she stated that the locker was not searched in the presence of the workman concerned. And also that she was not present at the place negotiations were held with the workman and at the time of writing of resignation. MW-1 produced, Exhibit W-1 copy of DDR number 21. WW-2 stated that he was working with the management and knew the workman concerned. He also narrated the incident of 29th November, 1977 when the concerned workman asked the Administrative Officer at the time of taking key from her that she will also accompany her but was not allowed. In cross-examination he stated that on that day he was working on seat adjacent to that of the concerned workman. He further stated that Shri Hari Prem WW-3 was General Secretary of the union. There was no union at the time of incident. It was formed in January, 1978. He further stated that he did not know regarding recovery of 30 devices from the purse of the workman, nor he knew that she was taken to police station. WW-3 and WW-4 fully corroborated the statement of WW-2. WW-5 the concerned workman stated that she joined this factory ten years back and was dismissed on 29th November, 1977 on which date key of her locker was taken by Miss Sumer Kaur. She was not accompanied by her. She was called in the reception room 10—15 minutes earlier to off duty time. Police was called and she was asked to go to police station. Miss Sumer Kaur, Gulshan Arora, Shri Sahni, Miss Shashi Dutta were also at the police station. She was interrogated there. She did not confess her guilt. Her husband and brother were also called there. In cross-examination she stated that she was one of 50—60 lady workers out of total 200 workmen. She worked under Miss Sumer Kaur. Prior to the date of occurrence Miss Sumer Kaur had never asked for the key of locker from her. She denied the suggestion that she was asked to accompany to the locker by Miss Dutta but she refused. She further stated that she was taken to the police station in the factory car. In the same car were Miss Dutta, the Manager, Shri Kundan Lal and Shri Sahni. Police people were in other car. She further stated that Shri G. K.

Arora had asked her to resign. The police had also threatened her to resign. She denied the suggestion that she had asked her husband and brother. Shri Kundan Lal himself had brought her brother and husband to the police station in the car. She admitted that the resignation was written in her own hand by her at the police station. She admitted that her brother and husband had witnessed resignation, Exhibit M-1/A to the fact that she had resigned of her own. She stated that they had written under the threat of the police. She further stated that police did not confine her, nor she was detained at the police station for the whole night. She denied the suggestion that she raised demand through Bhartiya Mazdoor Sangh and stated that there was no union at that time. She denied the suggestion that she had resigned to save herself from harassment of the prosecution. She also stated that she did not complain to the higher police authorities regarding threats and her resignation at the police station.

Exhibit M-1/A is resignation. It is admitted by MW-1 and also the concerned workman that it was in her own hand. Her husband and brother also witnessed the resignation. The representative for the workman argued that the resignation was written under the threat of police and it was not a voluntary act of the workman. She had apprehension in her mind of the disgrace at the hand of the police. On the other hand the representative for the management argued that the resignation was voluntary though it was written at the police station. MW-1 stated that the resignation was written by the workman with consultation of her husband and brother. No policeman was present at the time of writing of the resignation. This statement is corroborated by MW-2 who stated that even she was not present at the place of writing of resignation. It is into evidence that some 30 devices were recovered from the concerned workman in the presence of 5-6 other workmen. This fact was hanging in the mind of the workman and her two relatives at the police station in compelling her to resign the job. It is very common

that people are afraid of prosecution in criminal courts and more so when the accused is a lady. I think this was the cause which weighed with the workman and her relatives to resign the job. As regards the fact of resignation, Exhibit M-5 to M-8 are statements of other workmen. There is not an iota of evidence to show that the management was anxious of liquidating the services of the workman. It is also admitted by the WW8 that there was no union at the time of the incident. Even the workman concerned did not state in her own statement that she had become an unwanted person by the management. I find the demand notice, Exhibit M-5 through Bhartiya Mazdoor Sangh. The workman did not produce her brother and her husband in witness-box. All this leads me to inference that the workman had resigned the job of her own to avoid harassment over the recovery of devices. The demand notice seems an after thought. Therefore, I decide Issue No. 1 in favour of the management.

ISSUES NO. 2 TO 5:

As per finding given on Issue No. 1, these issues need no decision.

While answering the reference, I give my award that the workman resigned her job of her own and the management did not terminate her services. The workman is not entitled to any relief.

The 9th December, 1980.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1153, dated 11th December, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)-80-8Lab/13610.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act

No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Bhartiya Electric Steel Co. Ltd., Mathura Road, Faridabad:—

BEFORE SHRI M. C. BHARDWAJ,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD
Reference No. 103 of 1978

between

SHRI VISHNU RAM, WORKMAN AND
THE MANAGEMENT OF M/S
BHARTIYA ELECTRIC STEEL CO.
LTD. MATHURA ROAD, FARIDABAD.
Present:

Shri P. K. De for the workman.

Shri K. P. Agrawal for the management.

AWARD

By order No. ID/FD/85-78/17340, dated 4th May, 1978, the Governor of Haryana, referred the following dispute between the management of M/s Bhartiya Electric Steel Co. Ltd., Mathura Road, Faridabad and its workman Shri Vishnu Ram, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Vishnu Ram was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 18th September, 1978:—

- (1) Whether the domestic enquiry is fair and proper?
- (2) Whether the termination of services of the workman was justified and in order?
- (3) Relief?

And the case was fixed for the evidence of the management, who examined Shri K. Harihar, Assistant Works Manager, as MW-1 and closed their case. Then the case was fixed for the evidence of the workman, who examined himself and

closed his case. Arguments were heard. ISSUE NO. 2:

I now give my finding issueswise:—

ISSUE NO. 1:

MW-1 stated that he was appointed Enquiry Officer,—vide Exhibit M-1 to enquire into the charge-sheet, Exhibit M-2. He held the enquiry proceedings which are Exhibit M-3 and gave his finding, Exhibit M-4. He further stated that he gave full opportunity to the workman to cross-examine the management witnesses and also to produce his defence. Documents placed on the file in the enquiry were Exhibit M-5 to Exhibit M-16. In cross-examination he stated that the workman participated throughout the enquiry. He denied the suggestion that full opportunity to the workman was not given during the enquiry. He denied as incorrect that the signatures of the workman were obtained forcibly on the statement of the workman during the enquiry.

WW-1 stated that he was not charge-sheeted but an enquiry was held against him by the Assistant Works Manager. He further stated that he demanded facilities in the enquiry but was denied. He produced, Exhibits W-1 to W-10 relating to the enquiry and subsequent thereto. In cross-examination he admitted his signatures on Exhibits M-2 and M-13 and admitted his letter, Exhibit M-Y.

I have gone through the file of the enquiry and find that Shri Vishnu Ram the workman concerned was intimidated of the enquiry by the management as well by the Enquiry Officer and he presented himself before the Enquiry Officer and attended proceedings on subsequent dates. The management witnesses were cross-examined by the workman and he led his defence. There is mention on the concluding day of the enquiry that the workman did not want to lead any other defence evidence, nor he wants to produce any document. This statement is signed by the workman and his representative.

I have gone through the finding of the Enquiry and statement of witnesses. The finding is based on evidence. It is fair and proper and was held according to the principles of natural justice. This issue is, therefore, decided in favour of the management.

The workman stated that he was neither absent, nor committed any misconduct. He admitted having received letter, Exhibit W-5 termination letter which states that the management considered carefully the facts and evidence placed on record and finding of the Enquiry Officer and decided to terminate the services of the workman, charges being proved which were of grave and serious in nature. Again, a show-cause notice, Exhibit W-7 was written to the workman in reply to his demand notice, dated 29th July, 1979 that in case he had anything else to say against the termination he should reply within two days of the notice and final termination letter, dated 17th August, 1977, Exhibit W-9 was passed by the management. On the point of punishment the representative for the management cited 1973 I-LLJ, page 280 in which it is held by their Lordships of the Hon'ble the Supreme Court that "one misconduct is proved either in the enquiry conducted by the employer or by the evidence placed before the Tribunal for the first time, punishment imposed cannot be interfered with by the Tribunal except in cases where the punishment is so hard as will suggest victimisation". I do not find any extenuating circumstances to interfere in the order of the management for terminating the services of the workman, the charges being misbehaving, manhandling and threatening his superiors. This issue is also decided in favour of the management.

ISSUE NO. 3:

The workman is not entitled to any relief.

While answering the reference, I give my award that the termination of services of the workman concerned was justified and in order. The workman is not entitled to any relief. I order accordingly.

The 8th December, 1980.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1147, dated 9th December, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour

and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 8th December, 1980.

No. 11(112)-80-8Lab/13611.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and management of M/s Lakshmi Rattan Engineering Works Ltd., Faridabad:—

BEFORE SHRI M. C. BHARDWAJ,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 82 of 1978

between

THE WORKMEN AND THE MANAGEMENT OF M/S LAKSHMI RATTAN
ENGINEERING WORKS LTD.,
FARIDABAD.

Present:

Shri S. R. Gupta for the workmen.

Shri R. C. Sharma for the management.

AWARD

By order No. ID/FD/77/12633, dated 29th March, 1978, the Governor of Haryana referred the following disputes between the management of M/s Lakshmi Rattan Engineering Works, Ltd., Faridabad and its workmen to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

- (1) Whether the workmen should be properly designated and their grades and scales of pay be framed? If so, with what details?

- (2) Whether the workmen are entitled to the grant of bonus for the year 1974-75 and 1975-76? If so, with what details?
- (3) Whether the workmen are entitled to any residential accommodation or an allowance in lieu thereof? If so, with what details?
- (4) Whether the workmen should be supplied with uniforms? If so, with what details?
- (5) Whether the workmen should be given gur and milk or an allowance in lieu thereof? If so, with what details?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 28th July, 1978:—

- (1) Whether the demands have been espoused by substantial number of workmen?
- (2) Whether the workmen should be properly designated and their grades and scales of pay be framed? If so, with what details?
- (3) Whether the workmen are entitled to the grant of bonus for the year 1974-75, 1975-76? If so, with what details?
- (4) Whether the workmen are entitled to any residential accommodation or an allowance in lieu thereof? If so, with what details?
- (5) Whether the workmen should be supplied with uniforms? If so, with what details?
- (6) Whether the workmen should be given gur and milk or an allowance in lieu thereof? If so, with what details?

And the case was fixed for the evidence of the workmen. The workmen examined Shri Adarsh Kishore as WW-1 and Shri Bed Ram as WW-2 and then the case was fixed for remaining evidence of the workmen. The workmen did not produce

any further evidence despite several adjourned dates. The case of the workmen was closed by order. Then the case was fixed for the evidence of the management. The management also did not produce any evidence and closed their case. Arguments were heard. I now give my finding issueswise:—

ISSUE NO. 1:

WW-1 stated that he was President of Laxmi Rattan Engineering Workers Union. He had raised the demands,—vide Exhibit W-1. Meeting of general body of the union was held in the union office. There were about 100 workers in that meeting. Letter of authority was given to the Conciliation Officer by more than 100 workmen. In cross-examination he stated that he was President of the union since August, 1977. The record of the union was in the union office. He denied the suggestion as incorrect that there was no such record and he was deposing falsely regarding the function of the union and raising of demand. WW-2 stated that the workmen had held meeting at the factory gate for raising the demands. There was union of workmen since the start of the factory.

The representative for the workmen argued that the demands were raised properly. And form 'F' letter of authority was given to the Conciliation Officer.

I have gone through the demand notice which is signed by Shri Adarsh Kishore, President of the union. No letter of authority or copy of resolution was placed by the workmen on the file. As regards oral evidence the venue of meeting described by the witness is different. The burden of proving the espousal of demand was on the workmen and they have failed to discharge that burden. It is a settled law that they cannot derive any benefit from the weakness of the other party. The argument that the management did not produce evidence has no force. Therefore, I hold that the present dispute is not an Industrial Dispute under section (K) of the Industrial Disputes Act as it was not espoused by a substantial number of workmen in the Industry. Therefore, this issue is decided against the workman.

ISSUES NOS. 2 TO 6:

As per finding given by me on issue No. 1, these issues need no decision.

As per finding given by me on Issue No. 1, the workmen are not entitled to any relief.

The 10th December, 1980.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1152, dated 11th December, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 11(112)-80-8Lab/13612.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Preceision Stampings, Sector 24, Faridabad:—

BEFORE SHRI M. C. BHARDWAJ,
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL,
HARYANA FARIDABAD,

Reference No. 105 of 1979

between

THE WORKMEN AND THE MANAGEMENT OF M/s. PRECEISION STAMPINGS, SECTOR-24, FARIDABAD.

Present:

Shri Darshan Singh, for the workmen.

Shri S. L. Gupta, for the management.

AWARD

By order No. FD/11/183-78/13647, dated 23rd March, 1979 the Governor of Haryana referred the following disputes between the management of M/s. Preceision Stampings, Sector-24, Faridabad and

its workman, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

1. Whether the workmen are entitled to the grant of bonus for the years 1976-77 and 1977-78
If so, with what details ?
2. Whether the production scheme should be introduced in the factory ? If so, with what details ?
3. Whether the contract system should be abolished and all the workmen of the contractor be made regular ? If so, with what details ?
4. Whether all the workmen should be made permanent ?
If so, with what details ?
5. Whether the workmen working in night shift are entitled to the grant of night allowance ? If so, with what details ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 9th August, 1979:—

1. Whether the reference is barred by a settlement ?
2. Whether the workmen are entitled to the grant of bonus for the years 1976-77 and 1977-78 ?
If so, with what details ?
3. Whether the production scheme should be introduced in the factory ? If so, with what details ?
4. Whether the contract system should be abolished and all the workmen of the contractor be made regular ? If so, with what details ?
5. Whether all the workmen should be made permanent ? If so, with what details ?
6. Whether the workmen working in night shift are entitled to the grant of night allowance ? If so, with what details ?

And the case was fixed for the evidence of the workmen. Shri Hazari Lal Presi-

dent of the union appeared alongwith his representative and admitted his signatures on the settlement. On behalf of the management Shri S. L. Gupta, their representative verified only the settlement Exhibit M-1 and closed his case. I, now give my finding issueswise:—
ISSUE NO. 1:

I have perused the file. Demand Notice dated 14th September, 1978 is on behalf of Preceision Stamping Employees Union. It is signed by Shri Raghubir Singh the General Secretary. I have gone through the settlement Exhibit M-1. It is under section 18(1) of the Industrial Disputes Act. In this settlement the signatories on behalf of the union are Shri Hazari Lal President, Dwarka Parshad Vice President, Raghubir Singh General Secretary, Khubi Ram Joint Secretary, Bir Singh Propaganda Secretary and Prithipal Singh Cashier. Shri Hazari Lal admitted his signatures. The demand notice was signed by Shri Raghubir Singh, who has also signed the settlement. The settlement is dated 20th December, 1978. The reference was received on 27th March, 1979. Thus it is post settlement. The settlement is signed by six officers of the union and covers the demand notice dated 14th September, 1978. Therefore, this issue is decided in favour of the management.

ISSUES NO. 2 to 5:

As issue No. 1 has been held that the reference is barred by the settlement, therefore these issues need no decision.

As per finding given by me on issue No. 1, the workmen are not entitled to any relief.

The 8th December, 1980.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal,
Haryana Faridabad.

No. 1148, dated the 9th December, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal,
Haryana Faridabad.